

REMARKS:

In the foregoing amendments, claim 9 was amended to correct editorial errors. For example, amended claim 9 redefines that the control selector lever is in the controllable state at the first endpoint and from the first endpoint to the midway position of the arched path of the locking lever. Claims 6-11 are in the application for consideration by the examiner at this time.

Applicant respectfully request that the foregoing amendments be entered under the provisions of 37 C.F.R. §1.116(b) for the purposes of placing the application in condition for allowance or for the purposes of appeal. The foregoing amendments to claim 9 correct editorial errors in the amendment to claim 9 set forth in the response filed on February 18, 2005. For example, in the previous response filed on June 14, 2004, and in responses filed prior thereto, claim 9 defined, *inter alia*, that the linkage keeps the control selector lever in a controllable state in an area *between the first endpoint and the midway point* of the rocking motion of the locking lever. The foregoing amendments to claim 9 define that the control selector lever is in the controllable state *at the first endpoint and from the first endpoint to the midway position* of the arched path of the locking lever. The foregoing amendments to claim 9 was applicant's intention in the previously filed response, and amended claim 9 has a meaning consistent with that used in the previously filed responses. Accordingly, the examiner considered and searched the limitations in amended claim 9 and such amendments do not raise any issues that require

further consideration and/or search. For these reasons, applicant respectfully requests that the foregoing amendments be entered under the provisions of 37 C.F.R. §1.116(b) for the purposes of placing the application in condition for allowance or for the purposes of appeal.

The Official action maintained the rejection of claims 6-9 under 35 U.S.C. §103(a) as being unpatentable over U.S. patent No. 4,641,545 of Rabe in view of U.S. patent No. 6,352,133 of Ojima. Claim 10, which was added in applicant's previously filed response, was rejected over the teachings of Rabe and Ojima in further view of the teachings of U.S. patent No. 6,425,729 of Coutant. Claim 11, which also was added in applicant's previously filed response, was rejected under 35 U.S.C. §103 over the teachings of Rabe and Ojima in further view of U.S. patent No. 6,341,479 of Scag. The teachings of Rabe, in particular, and Ojima were discussed and distinguished from applicant's claimed invention in the response filed on February 18, 2005, which remarks are incorporated herein by reference. The teachings of Coutant and Scag do not cure or rectify the aforesaid deficiencies in the teachings of Rabe and Ojima.

In addition to the reasons set forth in applicant's response filed on February 18, 2005, applicant respectfully submits that the presently claimed invention is distinguishable from the teachings of Rabe for at least the following reasons. At the bottom of page 5, the Official action commented that applicant argued that the Rabe reference does not disclose "a second endpoint of travel of

the locking lever, where the locking lever is in the uncontrollable state as required by the claims.” The Official action noted column 3, lines 40-45, of Rabe and stated “because of the concentricity of this portion [main portion 70] of the guide slot with the lever pivot axis (2), the position of the secondary lever 26 remains unchanged.” The Official action concluded that when the cam follower roller 62 is in the main portion, the controller selector is in an uncontrollable state.

Applicant respectfully submits the foregoing statements concerning the teachings of Rabe are inconsistent with 35 U.S.C. §103, because Rabe cannot be properly interpreted to teach what is alleged in the Official action. For example, when the cam roller 62 is in the main portion 70 of Rabe, the device of Rabe is not in an uncontrollable state, as required in the present claims.

Namely, the upward movement of the control lever is engaging the forward motion of the device therein (when cam roller 62 is in the main portion 70), as explained in Rabe at column 3, lines 31-36. The teachings of Rabe propose a primary lever 12 and a secondary lever 20, and the primary lever 12 is the control selector and is either used for controlling forward drive and rearward drive. The aforesaid portion of Rabe noted in the Official action stated that in forward drive the secondary lever 26 does not move. However, the lever 12 is not in an uncontrollable state in this position, because it is engaging the forward drive. This is in contrast to the arrangements required in the present claims, where the linkage places the control selector lever in the controllable

state at the first endpoint and from the first endpoint to the midway position of the arched path of the locking lever; and the linkage idles the control selector lever from the midway position to the second endpoint, so that the control selector lever is in the uncontrollable state in the midway position and from the midway position to the second endpoint of the arched path of the locking lever.

In the device proposed by Rabe upward movement of the control lever 12 from the position shown in Fig. 1 to that shown in Fig. 2 selects the forward operating drive, while downward movement of the control lever 12 from the position shown in Fig. 1 to that shown in Fig. 3 selects the rearward operating drive. Only the position of the control lever 12 shown in Fig. 1 of Rabe allegedly selects an uncontrollable state (i.e., neither the forward or rearward operating drive is selected). It appears that the Official action is only considering either the forward operating drive or rearward operating drive by movement of the control lever 12 while disregarding the other of the forward operating drive or rearward operating drive by movement of the control lever 12, when comparing the device of Rabe to that of applicant's claims. Applicant respectfully submits that one of ordinary skill in the art cannot be motivated to remove an essential structure of a device, when the teaching reference states that the structure is required therein. *Ex parte Hartmann*, 186 USPQ 366 (P.T.O.Bd.Ap. 1974); *Ex parte Thompson*, 184 USPQ 558 (P.T.O.Bd.Ap. 1974). See also *In re Rosen* 213 USPQ 347 (CCPA 1982). For these reasons, the teachings of Rabe cannot be modified to remove the selection of either of the

forward or rearward operating drive by control lever 12 without destroying essential structure required therein. Therefore, applicant respectfully submits that the teachings of Rabe cannot contemplate or suggest the invention as set forth in claim 9 and the claims that depend thereon, which require, *inter alia*, a linkage placing the control selector lever in the controllable state at the first endpoint and from the first endpoint to the midway position of the arched path of the locking lever; and the linkage idling the control selector lever from the midway position to the second endpoint, so that the control selector lever is in the uncontrollable state in the midway position and from the midway position to the second endpoint of the arched path of the locking lever.

Applicant respectfully submit that it is impermissible within the framework of 35 U.S.C. §103 to select a single line or two of a reference in total disregard for the remaining teachings of the reference and then rely upon the reference with the benefit of hindsight to show obviousness. *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 230 USPQ 416, 419 (Fed. Cir. 1986); *In re Wesslau*, 147 USPQ 391, 393 (CCPA 1965); *In re Mercer*, 185 USPQ 774, 778 (CCPA 1975). In the outstanding Office action, either forward operating drive or rearward operating drive of the control lever 12 must be disregarded (or omitted from the teachings of Rabe), when comparing the device of Rabe to that of applicant's claims. Since omitting a portion of a teaching is impermissible within the framework of 35 U.S.C. §103, the teachings of Rabe cannot contemplate or suggest, *inter alia*, a linkage placing the control selector lever in

an uncontrollable state in the midway position and from the midway position to a second endpoint of the arched path of the locking lever, as required in present claim 9.

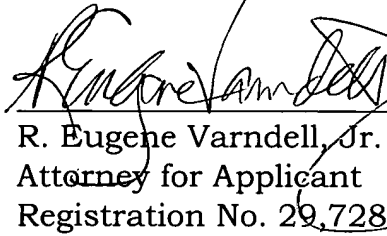
For these reasons, applicant respectfully submits that the teachings of Rabe either alone or combined with the other teachings cannot contemplate or suggest the basic structure set forth in all of applicant's claims.

In view the foregoing amendments and remarks, applicant respectfully submits that claim 6-11 are patently distinguishable from the teachings of Rabe, Ojima, Coutant, and/or Scag within the meaning of 35 U.S.C. §103(a). Therefore, applicant respectfully requests that the examiner reconsider and withdraw the rejections of the present claims over these teachings.

The foregoing is believed to be a complete and proper response to the Official action mailed May 4, 2005. While it is believed that all the claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which become due, may be charged to our deposit account No. 22-0256.

Respectfully submitted,
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